

FORT DONELSON NATIONAL BATTLEFIELD ACT OF 2004

JUNE 23, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 646]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 646) to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fort Donelson National Battlefield Act of 2004”.

SEC. 2. FORT DONELSON NATIONAL BATTLEFIELD.

(a) DESIGNATION; PURPOSE.—There exists as a unit of the National Park System the Fort Donelson National Battlefield to commemorate—

(1) the Battle of Fort Donelson in February 1862; and

(2) the campaign conducted by General Ulysses S. Grant and Admiral Andrew H. Foote that resulted in the capture of Fort Donelson by Union forces.

(b) BOUNDARIES.—The boundary of the Fort Donelson Battlefield is revised to include the site of Fort Donelson and associated land that has been acquired by the Secretary of the Interior for administration by the National Park Service, including Fort Donelson National Cemetery, in Stewart County, Tennessee, and the site of Fort Heiman and associated land in Calloway County, Kentucky, as generally depicted on the map entitled “Fort Donelson National Battlefield Boundary Adjustment”, numbered 328/80024, and dated September 2003. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) EXPANSION OF BOUNDARIES.—The Fort Donelson National Battlefield shall also include any land acquired pursuant to section 3.

SEC. 3. LAND ACQUISITION RELATED TO FORT DONELSON NATIONAL BATTLEFIELD.

(a) **ACQUISITION AUTHORITY.**—Subject to subsections (b) and (c), the Secretary of the Interior may acquire land, interests in land, and improvements thereon for inclusion in the Fort Donelson National Battlefield. Such land, interests in land, and improvements may be acquired by the Secretary only by purchase from willing sellers with appropriated or donated funds, by donation, or by exchange with willing owners.

(b) **LAND ELIGIBLE FOR ACQUISITION.**—The Secretary of the Interior may acquire land, interests in land, and improvements thereon under subsection (a)—

(1) within the boundaries of the Fort Donelson National Battlefield described in section 2(b); and

(2) outside such boundaries if—

(A) the land has been identified by the American Battlefield Protection Program as part of the battlefield associated with Fort Donelson; or

(B) the Secretary otherwise determines that acquisition under subsection (a) will protect critical resources associated with the Battle of Fort Donelson in 1862 and the Union campaign that resulted in the capture of Fort Donelson.

(c) **BOUNDARY REVISION.**—Upon acquisition of land or interests in land described in subsection (b)(2), the Secretary of the Interior shall revise the boundaries of the Fort Donelson National Battlefield to include the acquired property.

(d) **LIMITATION ON TOTAL ACREAGE OF PARK.**—The total area encompassed by the Fort Donelson National Battlefield may not exceed 2,000 acres.

SEC. 4. ADMINISTRATION OF FORT DONELSON NATIONAL BATTLEFIELD.

The Secretary of the Interior shall administer the Fort Donelson National Battlefield in accordance with this Act and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (commonly known as the Historic Sites, Buildings, and Antiquities Act; 16 U.S.C. 461 et seq.).

SEC. 5. RELATION TO LAND BETWEEN THE LAKES NATIONAL RECREATION AREA.

The Secretary of Agriculture and the Secretary of the Interior shall enter into a memorandum of understanding to facilitate cooperative protection and interpretation of the remaining vestiges of Fort Henry and other existing Civil War resources affiliated with the Fort Donelson campaign and located in the Land Between the Lakes National Recreation Area.

SEC. 6. REPEAL OF OBSOLETE PROVISIONS AND CONFORMING AMENDMENTS.

(a) **REPEALS.**—

(1) 1928 LAW.—The first section and sections 2 through 4, 6 through 8, and 10 of the Act of March 26, 1928 (16 U.S.C. 428, 428a–428c, 428e–428g, and 428i), are repealed.

(2) 1937 LAW.—Section 3 of the Act of August 30, 1937 (16 U.S.C. 428d–3), is repealed.

(3) 1960 LAW.—Sections 4 and 5 of Public Law 86–738 (16 U.S.C. 428n, 428o) are repealed.

(b) **CONFORMING AMENDMENTS.**—

(1) 1928 LAW.—The Act of March 26, 1928, is amended—

(A) in section 5 (16 U.S.C. 428d), by striking “: *Provided*” and all that follows and inserting a period; and

(B) in section 9 (16 U.S.C. 428h)—

(i) by striking “Fort Donelson National Park” and inserting “Fort Donelson National Battlefield”; and

(ii) by striking “Secretary of War” and inserting “Secretary of the Interior”.

(2) 1937 LAW.—The Act of August 30, 1937, is amended—

(A) in the first section (16 U.S.C. 428d–1)—

(i) by striking “Fort Donelson National Military Park” and inserting “Fort Donelson National Battlefield”; and

(ii) by striking “War Department” and inserting “Department of the Army”; and

(B) in section 2 (16 U.S.C. 428d–2)—

(i) by striking “Fort Donelson National Military Park” and inserting “Fort Donelson National Battlefield”; and

(ii) by striking “said national military park” and inserting “Fort Donelson National Battlefield”; and

(iii) by striking the last sentence.

(3) 1960 LAW.—Public Law 86–738 is amended—

- (A) in section 1 (16 U.S.C. 428k), by striking "Fort Donelson National Military Park" and inserting "Fort Donelson National Battlefield" and by striking ", but the total area commemorating the battle of Fort Donelson shall not exceed 600 acres"; and
- (B) by striking section 3 (16 U.S.C. 428m).

PURPOSE OF THE BILL

The purpose of H.R. 646 is to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862.

BACKGROUND AND NEED FOR LEGISLATION

Fort Donelson was first established as a National Military Park on March 26, 1928, and later designated as a National Battlefield on August 16, 1985. The Battlefield was established to preserve the Fort Donelson National Cemetery and the Dover Hotel, the site where Confederate General Simon Buckner surrendered to Ulysses S. Grant. H.R. 646 authorizes land to be acquired by the National Park Service outside the boundaries of the battlefield if the land has been identified by the American Battlefield Protection Program as property associated with Fort Donelson, or if the Secretary of the Interior determines that acquisition will protect critical resources associated with the Battle of Fort Donelson. Land, interests in land, and improvements may be acquired by the Secretary of the Interior only from willing sellers with appropriated or donated funds, by donation, or by exchange with willing owners. Civil War preservation groups in western Kentucky are prepared to assist in the open market purchase of land designated by the bill to then be donated to the National Park Service if legislation is in place.

The bill also directs the Secretary of the Interior and the Secretary of Agriculture to enter into a memorandum of understanding to facilitate cooperative protection and interpretation of the remaining vestiges of Fort Henry and other existing Civil War resources affiliated with the Fort Donelson Campaign and located in the Land Between the Lakes National Recreation Area.

COMMITTEE ACTION

H.R. 646 was introduced on February 5, 2003, by Congressman Ed Whitfield (R-KY). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Recreation and Public Lands. On September 16, 2003, the Subcommittee held a hearing on the bill. On April 22, 2004, the Subcommittee met to mark up the bill. Congressman George Radanovich (R-CA) offered an amendment in the nature of a substitute that made a number of technical changes recommended by the Administration. It was adopted by unanimous consent. The bill as amended was then ordered favorably reported to the Full Committee by unanimous consent. On May 19, 2004, the Full Resources Committee met to consider the bill. No further amendments were offered and the bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 18, 2004.

Hon. RICHARD W. POMBO,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 646, the Fort Donelson National Battlefield Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

ELIZABETH ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 646—Fort Donelson National Battlefield Act of 2004

H.R. 646 would expand the boundary of the Fort Donelson National Battlefield, a historic Civil War site located in Calloway County, Kentucky. The bill would authorize the Secretary of the In-

terior to acquire land to include in the battlefield by purchase, donation, or exchange. Finally, the bill would direct the Secretary of the Interior and the Secretary of Agriculture to enter into a memorandum of understanding to protect and interpret Fort Henry, a nearby Civil War site administered by the Forest Service.

According to the National Park Service (NPS), most of the land to be added to the battlefield would be donated by the state of Kentucky, Calloway County, and the West Kentucky Corporation. Assuming the availability of appropriated funds, we estimate that first-year costs to acquire additional land, hire staff, and purchase equipment for the expanded battlefield would total about \$1.2 million. We also estimate that future operational costs would total \$1 million annually. Finally, we estimate that the NPS and the Forest Service would spend less than \$100,000 annually to enhance interpretation services at Fort Henry.

H.R. 646 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Any costs incurred by the state of Kentucky or local governments in that state to acquire land for the park would be voluntary.

On March 26, 2004, CBO submitted a cost estimate for S. 524, the Fort Donelson National Battlefield Expansion Act of 2004, as ordered reported by the Senate Committee on Energy and Natural Resources on March 9, 2004. H.R. 646 is very similar to S. 524, and the estimated costs of the two bills are identical.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

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ACT OF MARCH 26, 1928

AN ACT To establish a national military park at the battle field of Fort Donelson, Tennessee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ∫ That a commission is hereby created, to be composed of the following members, who shall be appointed by the Secretary of War:

∫(1) A commissioned officer of the Corps of Engineers, United States Army;

¿(2) A veteran of the Civil War who served honorably in the military forces of the United States; and

¿(3) A veteran of the Civil War who served honorably in the military forces of the Confederate States of America.

¿SEC. 2. In appointing the members of the commission created by section 1 of this Act the Secretary of War shall, as far as practicable, select persons familiar with the terrain of the battle field of Fort Donelson, Tennessee, and the historical events associated therewith.

¿SEC. 3. It shall be the duty of the commission, acting under the direction of the Secretary of War, to inspect the battle field of Fort Donelson, Tennessee, and to carefully study the available records and historical data with respect to the location and movement of all troops which engaged in the Battle of Fort Donelson, and the important events connected therewith, with a view of preserving and marking such field for historical and professional military study. The commission shall submit a report of its findings and recommendations to the Secretary of War not later than December 1, 1928. Such report shall describe the portion or portions of land within the area of the battle field which the commission thinks should be acquired and embraced in a national park and the price at which such land can be purchased and its reasonable market value; the report of the commission shall also embrace a map or maps showing the lines of battle and the locations of all troops engaged in the Battle of Fort Donelson and the location of the land which it recommends be acquired for the national park; the report of the commission shall contain recommendations for the location of historical tablets at such points on the battle field, both within and without the land to be acquired for the park, as they may deem fitting and necessary to clearly designate positions and movements of troops and important events connected with the Battle of Fort Donelson.

¿SEC. 4. The Secretary of War is authorized to assign any officials of the War Department to the assistance of the commission if he deems it advisable. He is authorized to pay the reasonable expenses of the commission and their assistants incurred in the actual performance of the duties herein imposed upon them.

SEC. 5. That, upon receipt of the report of said commission the Secretary of War be, and he is hereby, authorized and directed to acquire, by purchase, when purchasable at prices deemed by him reasonable, otherwise by condemnation, such tract or tracts of lands as are recommended by the commission as necessary and desirable for a national military park; to establish and substantially mark the boundaries of the said park; to definitely mark all lines of battle and locations of troops within the boundaries of the park and erect substantial historical tablets at such points within the park and in the vicinity of the park and its approaches as are recommended by the commission, together with such other points as the Secretary of War may deem appropriate; to construct the necessary roads and walks, plant trees and shrubs, restore and care for the grounds, including the restoration and maintenance of those portions of old Fort Donelson, and of the Confederate water batteries that are located on the present engineer reservation¿: *Provided*, That the entire cost of acquiring said land, including cost of condemnation proceedings, if any, ascertainment of title, surveys,

and compensation for the land, the cost of marking the battle field, the expenses of the commission, and the establishment of the national military park shall not exceed the sum of \$50,000. .

¿SEC. 6. That, upon the ceding of jurisdiction by the Legislature of the State of Tennessee and the report of the Attorney General of the United States that a perfect title has been acquired, the lands acquired under the provisions of this Act, together with the area already inclosed within the national cemetery at the battle field of Fort Donelson, are hereby declared to be a national park, to be known as the Fort Donelson National Park.

¿SEC. 7. That the said Fort Donelson National Park shall be under the control of the Secretary of War, and he is hereby authorized to make all needed regulations for the care of the park. The superintendent of the Fort Donelson National Cemetery shall likewise be the superintendent of and have the custody and care of the Fort Donelson National Park, under the direction of the Secretary of War.

¿SEC. 8. That the Secretary of War is hereby authorized to enter into agreements, upon such nominal terms as he may prescribe, with such present owners of the land as may desire to remain upon it, to occupy and cultivate their present holdings, upon condition that they will preserve the present buildings and roads, and the present outlines of field and forest, and that they will only cut trees or underbrush under such regulations as the Secretary may prescribe, and that they will assist in caring for and protecting all tablets, monuments, or such other artificial works as may from time to time be erected by proper authority.

SEC. 9. That it shall be lawful for the authorities of any State having troops engaged in the Battle of Fort Donelson to enter upon the lands and approaches of the Fort Donelson National ¿Park *Battlefield* for the purpose of ascertaining and marking the lines of battle of troops engaged therein; *Provided*, That before any such lines are permanently designated, the position of the lines and the proposed methods of marking them by monuments, tablets, or otherwise shall be submitted to the ¿Secretary of War *Secretary of the Interior* and shall first receive the written approval of the Secretary.

¿SEC. 10. That if any person shall willfully destroy, mutilate, deface, injure, or remove any monument, column, statue, memorial structure, or work of art that shall be erected or placed upon the grounds of the park by lawful authority, or shall willfully destroy or remove any fence, railing, inclosure, or other work for the protection or ornament of said park, or any portion thereof, or shall willfully destroy, cut, hack, bark, break down, or otherwise injure any tree, bush, or shrubbery that may be growing upon said park, or shall cut down or fell or remove any timber, battle relic, tree, or trees growing or being upon such park, except by permission of the Secretary of War, or shall willfully remove or destroy any breastworks, earthworks, walls, or other defenses or shelter, or any part thereof, constructed by the armies formerly engaged in the battle on the lands or approaches to the park, any person so offending shall be guilty of a misdemeanor, and upon conviction thereof

before any court of competent jurisdiction shall for each and every such offense be fined not less than \$5 nor more than \$100.

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ACT OF AUGUST 30, 1937

AN ACT To provide for the addition of certain lands to the Fort Donelson National Military Park in the State of Tennessee, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following-described tracts or parcels of land, lying and being within the seventh civil district of Stewart County, Tennessee, are hereby transferred from the jurisdiction of the Secretary of War to the jurisdiction of the Secretary of the Interior as additions to the Fort Donelson National Military Park *Battlefield*, and shall hereafter be subject to all laws and rules and regulations applicable to said park:

Tract numbered 1, a right-of-way, fifty feet wide, lying twenty-five feet on each side of a center line, beginning at a point in the southerly boundary line of lock D reservation, seven hundred and thirty-four and eight-tenths feet from the southwest corner of this reservation; thence south thirty-one degrees five minutes west seventy-seven and one-tenth feet, thence south eighty-six degrees twenty-one minutes west four hundred and seventy-nine and nine-tenths feet, thence south sixty-three degrees fifty-three minutes west two hundred and sixty-two and three-tenths feet, thence south thirty-nine degrees thirty-six minutes west one hundred and eighty-six and seven-tenths feet, thence south exactly forty minutes east exactly one hundred and ninety-four feet, thence south thirty degrees fifty-eight minutes east three hundred and fourteen and five-tenths feet, thence south twenty-eight degrees fifteen minutes east exactly eighty-five feet, thence south twenty-eight degrees thirty-seven minutes east two hundred and fifty and five-tenths feet, thence south four degrees six minutes east two hundred and sixty-one and seven-tenths feet, thence south thirty-six degrees twenty-seven minutes east two hundred and eighty-two and three-tenths feet, thence south twenty-three degrees forty-five minutes east one hundred and seventy-eight and three-tenths feet to center line of county road, reserving, however, to the War Department *Department of the Army* the right to the continued use of the road over this tract as means of access to lock D.

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SEC. 2. The Secretary of the Interior is hereby authorized to accept donations of land, interests in land, buildings, structures, and other property within a distance of one mile from the boundaries of said Fort Donelson National Military Park *Battlefield*, as hereby extended, and donations of funds for the purchase or maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf of the United States out of any donated funds, by purchase at prices deemed by him reasonable or by condemnation, such tracts of land within a distance of one mile from the boundaries of the said national military park *Fort Donelson*

National Battlefield as may be necessary for the completion thereof.   Upon the acquisition of such land, the same shall become a part of the Fort Donelson National Military Park and shall be subject to the laws and rules and regulations applicable to said park.

  SEC. 3. The administration, protection, and development of the lands hereby authorized to be added to the Fort Donelson National Military Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), entitled "An Act to establish a National Park Service, and for other purposes", as amended.

ACT OF SEPTEMBER 8, 1960

AN ACT To revise the boundaries and change the name of Fort Donelson National Military Park, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the purposes of the Act entitled "An Act to establish a national military park at the battlefield of Fort Donelson, Tennessee", approved March 26, 1928 (16 U.S.C. 428 and the following), and to facilitate an appropriate observance of the one hundredth anniversary of the Battle of Fort Donelson, the Secretary of the Interior is authorized to designate for addition to the present   Fort Donelson National Military Park *Fort Donelson National Battlefield* such lands and interests in lands adjacent to said park as in his discretion are necessary to preserve and interpret this historic battle-ground, including the nearby historic Surrender House and the land upon which it is situated on Spring Street in the town of Dover, Tennessee, but the total area commemorating the battle of Fort Donelson shall not exceed 600 acres .*

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  SEC. 3. There is hereby authorized to be appropriated the sum of not to exceed \$454,000 for the purpose of acquiring lands, interests in lands, and improvements thereon as may be necessary for carrying out this Act.

  SEC. 4. Upon acquisition of the additional lands pursuant to authority contained in this Act, the Fort Donelson National Military Park shall be redesignated by the Secretary of the Interior as the Fort Donelson National Battlefield, notice thereof shall be published in the Federal Register, and any remaining balance of funds appropriated for purposes of the Fort Donelson National Military Park shall be available for the purposes of the Fort Donelson National Battlefield.

  SEC. 5. The administration, protection, and development of the Fort Donelson National Battlefield shall be exercised by the Secretary of the Interior in accordance with the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended.